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ORIGINAL



Florida Department of Transportation

DEPT. OF TRANSPORTATION

JEB BUSH
GOVERNOR

605 Suwannee Street
Tallahassee, Florida 32399-0450

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THOMAS F. BARRY, JR.
SECRETARY

December 28, 1999

Docket Clerk
U.S. DOT Docket
Room Pl. - 401
400 Seventh Street, S. W.
Washington, D.C. 20590-0001

SUBJECT: **FHWA** DOCKET NO. **FHWA - 1999-5387 - 25**

1. Respondent - Charles Goodman, P. E.
Construction Engineer
Florida Department of Transportation
MS - 31
605 Suwannee Street
Tallahassee, Florida 32399-0450
Telephone 850-414-4150

Signed: *Charles Goodman*

2. Florida's use of OFF DUTY uniformed officers hired by the contractor - They can be any uniformed sworn Police Officer (County, City or State). This is a pay item in the project contract (by the hour). During 1999 we used this on 227 contracts for a total of \$4,187,117.00 authorized funds.

Florida's use of ON DUTY (Hire Back) Florida Highway Patrol (FHP) through a contract with FHP - These officers have arrest powers that the off Duty officers do not have. During 1999 we used this option on 97 contracts for a total of \$1,354,891.00 expended funds.

3. Florida's policy on the use of Off Duty or On Duty (Hire back) officers is set forth in our design guidelines. Our policy doesn't differentiate between Federal Aid projects and state-funded projects.

4. Policy -

- a. For off duty, design and construction discussed needs and hours - Designer puts plan notes on Traffic Control Plan

sheets stating when to use. For On Duty (Hire Back) construction reviews project with FHP officer to determine number of officers and hours required.

b. Construction, Design and FHP developed

c. No real data, but, feel that it has reduced accidents on projects when construction personnel are present. We have only had one fatality while an officer was present and that fatality was an officer. Our record keeping does not record if an officer or workers were present when an accident occurred. The use of both Off Duty and On Duty (Hire backs) improves the project operations. There was some public reaction to the On Duty (Hire Back) because of the speeding fine in the construction zone being doubled. Over all there have been little public feed back.

5. There has been a drop in injuries and fatalities when officers are present. The number of workers injured has dropped. We only use officers when workers are present. Over all the records do not indicate a drop off in accidents in work zones.

6. From October 1998 to September 1999 there were 39,972 arrest tickets and 13,378 warning tickets issued in the work zone by the On Duty (Hire Back) officers. The officers worked 49,538 hours, and investigated 540 crashes.

7. We have developed a training program and it is in progress. The program will be on a train the trainer bases.

8. Yes - Each officer also has a copy of our standard index showing MUTCD standard setups.

9. All officers must have a marked car. The officers only leave their vehicles when directing traffic at an intersection during traffic signal installation.

10. Both Off Duty and On Duty (Hire Back) are used.

11. Off Duty - Construction Staff and Designer. The Construction Staff and the Contractor may revise as conditions warrant.

On Duty(Hire Back) - Construction Staff and FHP.

12. Same as above

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13. Yes - The use of On Duty (Hire Back) provides the best improvement in speed reductions which in turn has reduced crashes.
14. They wear their normal protective equipment that all officers wear. Any time they are out of their vehicle, they wear a high visibility vest.
15. The Contractor tells us that it does.
16. Night time work on limited access always includes pay item for Off Duty officers. Day time work on limited access may be either Off Duty or On Duty (Hire Back) officers. All other projects are reviewed during the development of the TCP Plan. Florida Statue requires that all projects have a TCP Plan.
17. The On Duty (Hire Back) officers make other none traffic related arrests during traffic stops.
18. Highway construction funds.
19. No!
20. Yes - See-attached the memorandum of the understanding between FDOT and FHP.

CWG/mw
Attachment

The regulatory speed should not be reduced **more** than 10 mph below the posted speed, and never below the minimum statutory speed for the class of facility, without the approval of the District Traffic Operations Engineer and the appropriate District Director. (See the *Roadway and Traffic Design Standards, Index 600*).

To ensure credibility with motorists and enforcement agencies, temporary regulatory speed signs shall be removed or covered as soon as the conditions requiring the reduced speed no longer exist. Once they are removed or covered, the speed existing prior to construction will automatically go back into effect unless new speed limit signing is provided for in the plans. On projects with interspaced work activities (such a interstate resurfacing) speed reductions should be located in proximity to those activities which merit a reduced speed, and not “blanketed” for the entire project.

The TCP phase notes shall indicate when to remove the regulatory reduced speed limit signs.

When the regulatory speed is changed in a work zone, the permanent speed limit signs are to be removed or covered during the period when the work zone regulatory speed zones are in effect. .

10.16 Law Enforcement Services

Work zones may require law enforcement services to protect both the workers and motorists during construction or maintenance activities. The need for these services should be considered during the development of the Traffic Control Plans. The service needed could involve On-duty FHP for speed enforcement, Off-duty law enforcement for traffic control, or a combination of the two. |

A contractual agreement between the FDOT and the Florida Department of Highway Safety and Motor Vehicles (DHSMV) was entered into for the use of On-duty FHP to exclusively enforce the speed limit in specified work zones. (REF. Contract #B-8970)

Off-duty law enforcement services are to be used for traffic control only. The Off-duty law enforcement officers may be acquired from local law enforcement agencies or by the hire-back of Off-duty Florida Highway Patrol officers. Such Off-duty law enforcement services shall not include patrolling or speed enforcement. It should never be assumed that the presence of Off-duty law enforcement will deter speeding. The use of Off-duty law enforcement may be called for on a project which also uses On-duty FHP.

10.16.1 Use of On-Duty FHP

 |

The Department has determined that construction or maintenance activities on limited access facilities that divert, restrict, or significantly impair vehicular movement through work zones may require patrolling of On-duty FHP specifically for speed enforcement to provide a safer environment for both workers and motorists. Speed enforcement by On-duty FHP may also be warranted, for the safety of the motorists, through some work zones during times when construction or maintenance activities are not in progress.

On-duty FHP can be used on non-limited access highways provided that the District Director of Operations has approved its use.

On-duty FHP will be paid for under pay item 2999-1(metric) or 999-1(English).

For Off-duty law enforcement, the TCP shall clearly indicate the intended use of the officer(s) during each phase of construction, the need for the service, the number of officers needed, and the required man-hours. Off-duty law enforcement will be paid for under pay item 2102-10(metric) or 102-10(English). Complete documentation that complies with the TCP shall be included in the Computation Book.

The initial coordination between the designer/project manager and construction shall take place prior to Phase II. The final determination of man-hours and final documentation shall be accomplished at the same time that construction days are set.

10.16.4 Other Uses of Law Enforcement

The contractor may choose to use law enforcement services beyond the details of the TCP for situations that assist with mobilization, de-mobilization, MOT set-up, and other instances where he prefers the use of law enforcement.

The contractor is responsible for the coordination of these uses and will be included under the Lump Sum Maintenance of Traffic pay item. These contractor required services are not to be included in the Department's contract pay items for law enforcement services.



Florida Department of Transportation

JEB BUSH
GOVERNOR

605 Suwannee Street
Tallahassee, Florida 32399-0450

THOMAS F. BARRY, JR.
SECRETARY

September 10, 1999

M E M O R A N D U M NO.: 08-99

TO: DISTRICT DIRECTORS OF OPERATION
DISTRICT CONSTRUCTION ENGINEERS
DISTRICT MAINTENANCE ENGINEERS

FROM : Bill Albaugh, Highway Operations Director

COPIES: Sharon Holmes, Freddie Simmons, Greg Xanders,
Charles Goodman, Archie Montgomery,
Area Construction Engineers

SUBJECT: MEMORANDUM OF UNDERSTANDING BETWEEN **FDOT** AND **FHP**
FOR TRAFFIC CONTROL MEASURES IN HIGHWAY CONSTRUCTION
WORK ZONES

We have recently completed a Memorandum of Understanding with the Department of Highway Safety and Motor Vehicles - Florida Highway Patrol relative to our joint effort to reduce accidents in the highway construction work zone. The Memorandum of Understanding is an effort by both agencies to recognize the hazards associated with working on a highway under traffic, and to fully explore additional safety measures, coordination and training that each party can put forth in order to help reduce work zone accidents.

Please discuss the contents of the agreement at your Safety Meetings, Quarterly Contractors Meetings, Resident Engineers Meetings, Maintenance Engineers Meetings, and preconstruction conferences.

The Memorandum of Understanding between FDOT and FHP for Traffic Control Measures in Highway Construction Work Zones is attached for your information.

Should you have any questions, please advise.

GAX/mw
Attachment





Florida Department of Transportation

JEB BUSH
GOVERNOR

605 Suwannee Street
Tallahassee, Florida 32399-0450

THOMAS F. BARRY, JR.
SECRETARY

August 30, 1999

M E M O R A N D U M of Understandins Between FDOT and FHP

SUBJECT: TRAFFIC CONTROL MEASURES IN HIGHWAY CONSTRUCTION
WORK ZONES

The Florida Department of Transportation (FDOT) and the Florida Highway Patrol (FHP) are vitally interested in providing a safe traffic control plan for highway construction work zones. The safety of workers, law enforcement and the motoring public is paramount at all highway construction work zones. It is imperative that we take all measures possible to ensure that their safety is taken into consideration in the preparation of traffic guidelines for highway construction work sites. This memorandum will provide additional guidelines that may not be encompassed in the "Scope of Services" in the contract between FDOT and the FHP. Please make sure that all FDOT staff and FHP members assigned to work an off-duty/hireback detail are familiar with both the provisions of the contract between FDOT and FHP, and this memorandum.

When the FDOT determines that the Hireback Program will be used, a meeting will be scheduled with the FHP to discuss the extent of FHP participation. This must be done within a time frame to accommodate the posting notice specified in the contract. As with any procurement of service, the purchase order must be issued before services are provided. In this regard, there are instances where the FDOT and FHP can provide expertise and assistance to improve the overall safety for the contractors' workmen, the FDOT inspectors, the FHP troopers, and the traveling public. Use FHP hireback program for controlling traffic; both stationary and moving troopers at the discretion of the engineer.

When a highway construction work site is identified as needing hireback services, FDOT will invite FHP to the pre-construction conference. The Maintenance of Traffic (MOT) for highway construction zones will be discussed at these meetings. Troop Commanders or their designee will send a representative from the Florida Highway

Highway Construction Work-zones

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Patrol (FHP) to attend the pre-construction conference to discuss and determine when, where and how hireback officers will be used. Troop designees attending the pre-construction conference must be familiar with and have with them a copy of the Standards Index and project MOT plan.

After the pre-construction conference, the FHP representative will report to the Troop Commander and District Commander his or her findings from the meeting. The Troop Commander or his or her designee will prepare an enforcement plan and provide a copy of the plan to the FDOT. This plan will include the number of troopers required to staff the detail, the type(s) of enforcement that will be utilized during the detail, and any other specific duties expected of detail troopers.

Any trooper working the hireback detail will use a marked patrol vehicle. Marked patrol vehicles provide high visibility to the motoring public and provide a deterrent to potential violators. Visibility is of paramount value in providing physical protection to the officers and workers at the highway construction work site. Unmarked Florida Highway Patrol Vehicles will not be authorized to work construction hireback nor off-duty police details.

Troopers assigned to highway construction hireback details will report to the appropriate FDOT Engineer each day to discuss any concerns they may have for that day (special projects; changing lanes, etc.). If there are no special instructions given by the FDOT Engineer, the trooper(s) will begin mobile traffic enforcement within the work zone.

The following applies to off-duty FHP or other law enforcement officers:

1. The FHP Troop Commander and local County Sheriff will be invited to the pre-construction conference where the MOT plan will be thoroughly discussed with the contractor. The duties and responsibilities of the contractor, DOT or consultant inspectors, and the police officers in implementing the MOT plan will be laid out. The off-duty FHP or other law enforcement officer must use a marked vehicle.
2. Anytime the work zone is barricaded or coned off; troopers assigned to an off-duty detail at a rural area work site will place his or her patrol vehicle inside the barricaded or coned area. The vehicle, if at all possible, will be placed on the

emergency shoulder in a position that allows the trooper to monitor traffic and be in a position from which the motoring public can assume that the trooper is readily able to take appropriate enforcement action. When possible, troopers should engage in mobile patrol operations within the immediate work zone.

3. Any trooper assigned to an urban area off-duty detail may place their patrol vehicle outside the cones to warn traffic of the impending highway construction zone. However, at no time should a patrol vehicle be placed in a lane of travel.
4. At no time will any trooper park the patrol vehicle at a highway construction site with their hood open – this does not provide the trooper with an opportunity to take immediate enforcement action and sends a message to motorists that the trooper will remain stationary regardless of a violation.
5. If the off-duty FHP or other law enforcement officer receives instructions from the FDOT contractor that are inconsistent with their assigned duties and/or are not consistent with the MOT, he or she will contact the FDOT Engineer for clarification.
6. When escorting a moving operation, law enforcement vehicles should refrain from traveling in the traffic lanes. When the construction vehicles are in the lane of travel, the rear-most vehicle should be the truck mounted attenuators (TMA); law enforcement vehicles should be placed on the emergency lane or grass shoulder.
7. Whenever the FHP approves a trooper for an off-duty/hireback job, each officer must be trained in the appropriate MOT regarding lane closures, and other safety precautions for the detail. Training documentation will be maintained at the FHP district level.
8. To ensure all safety procedures are followed, the Troop Commander or his/her designee will periodically visit highway construction sites in their area. This visit should be coordinated with the FDOT Engineer. Additionally, troopers and supervisors should report any non-conformance to the MOT to the FDOT Engineer.
9. To improve communication, the FHP will participate in meetings with the FDOT construction and maintenance engineers at their quarterly meetings. FDOT will

Highway Construction Work-zones

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make available copies of Road and Traffic Design Standards Index 600, and project MOT plans to FHP.

FDOT and FHP will determine the appropriate training necessary for FHP and local police officers in making proper MOT lane closure setup, safety procedures, provide/discuss FDOT memorandums, flagging procedures, moving contractor's equipment, evaluation of clear zones, buffer zones, shoulder work, etc.

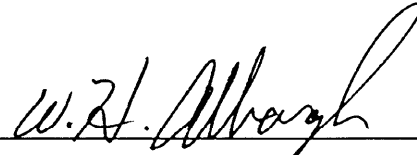
FDOT will invite FHP to quarterly contractors meetings, and will invite FHP to conduct joint reviews of MOT setups on all types of projects.

FDOT will review current use of truck mounted attenuators (TMA) in protecting the workers, police and traveling public to see if there are other situations where TMA's should be used.

Troop Commanders are encouraged to document periodically reviews for enhancement with respective FDOT district engineer.



Colonel Charles C. Hall
Director
Florida Highway Patrol



William Albaugh
Director of Highway Operations
Florida Department of Transportation

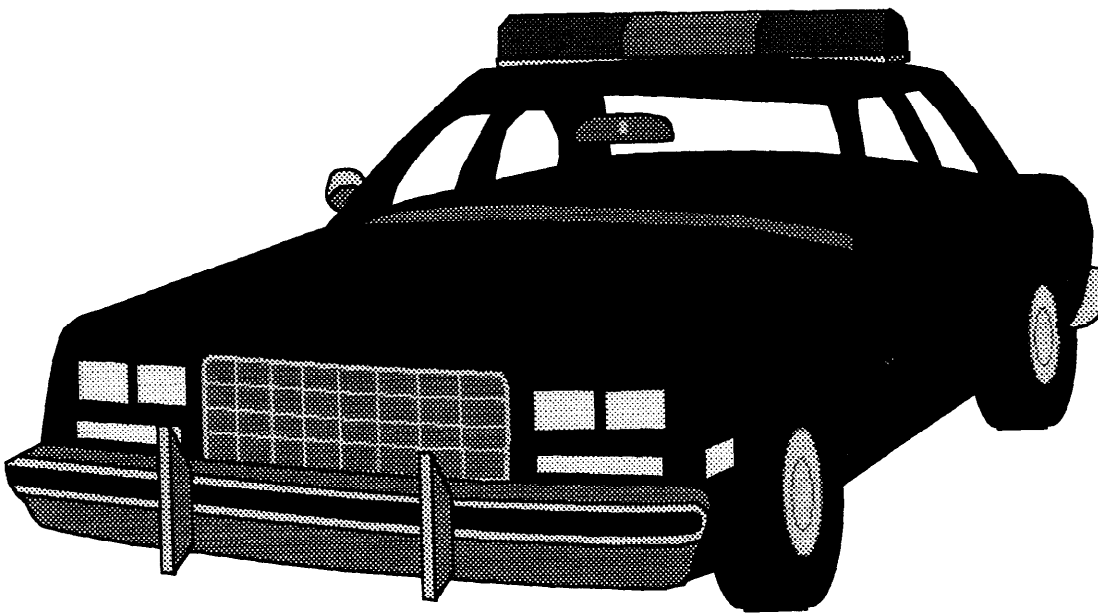
Florida Department of Transportation
and
The Department: of Highway Safety
and Motor Vehicles
Working Together for Safer Roads



GUIDELINES FOR USE OF FLORIDA
HIGHWAY PATROL IN WORK ZONE
SPEED CONTROL

November 1998

Florida Department of Transportation
and
The Department of Highway Safety
and Motor Vehicles
Working Together for Safer Roads



GUIDELINES FOR USE OF FLORIDA
HIGHWAY PATROL IN WORK ZONE
SPEED CONTROL

November 1998

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GUIDELINES FOR USE OF FLORIDA HIGHWAY PATROL

IN WORK ZONE SPEED CONTROL

INTRODUCTION

PURPOSE

The purpose of this guideline is to provide the user with information which will aid in determination of the need for and method(s) of use of Florida Highway Patrol Officers in speed control through work zones. The guide will lead the user from determination of need through the invoice processing instructions. Design, Construction and Maintenance personnel, both in-house and consultants, should find the guide **useful**. The guide primarily deals with use of patrolling officers on freeways and other limited access facilities, but will also discuss other possible officer uses.

BACKGROUND

It has been clearly recognized that the average motorist does not comply with posted reduced speed through work zones. While our standard reduced speed is at most only a 10 mph reduction of **from** the normal speed limit, speeds much higher than this are often found. This presents a safety hazard to workers, motorists and equipment.

The use of a stationary stationary officer has proven to be less effective than desired. No patrolling was done, no tickets written, no arrests made and therefore, minimal compliance obtained. The public's disregard of this method has resulted in reduced effectiveness.

Staff from **FDOT** and **FHP** prepared a joint contractual agreement which is included in this guide which provides for **FHP** officer use on highways to actively enforce reduced speeds through work zones. The officers will be ticketing speeders and making regular patrols through the entire work zone. We feel that this mobile presence and enforcement activities will greatly improve present conditions.

USE OF AGREEMENT - ESTABLISHING NEEDS AND PLANS IMPACT

DETERMINATION OF NEED

The need for law enforcement services should be determined during the development of the Traffic Control Plan (**TCP**). This can only be accomplished through consultation with construction personnel, review of the MOT phases and proposed MOT set-ups. Knowledge of local traffic, drivers and experience with work zone controls will be helpful. Similar projects, the experiences of project engineers on those projects and a review of the records will also offer some insights. Local law enforcement agencies should be contacted for assistance and consultation.

RECOMMENDATIONS FOR ON-DUTY ENFORCEMENT SERVICES

1. The Department has determined that construction or maintenance activities on freeways

and other limited access facilities during night time hours that require lane closures which divert or restrict vehicular movement through work zones will require active enforcement to provide for the safety and protection of both workers, motorists and equipment.

2. Closures at other times and on other highways may also warrant officers. This could depend on the duration of closure, magnitude of construction activity involved, type traffic control plan in place, volume of traffic, seasonal needs, etc. This decision must be made during the **TCP** development. Use of on-duty law enforcement officers on other than a limited access highway should have prior concurrence **from** the District Director of Operations.
3. Certain work zones may require scheduled officers on days when there is not any construction or maintenance activities in progress. When the work zone posted speed limits must be reduced for safety, but there is not any visible work in progress the traveling motorists will attempt to exceed the posted work zone speed, unless speed enforcement measures are taken.
4. Other uses of On-duty Law Enforcement Services - During any construction or maintenance activity where the **FDOT** Project Engineer determines that officers in the work zone are required to control the speed of **traffic** to the posted speed limit for the protection of workers and motorists he may request these services. Purchase orders are required for all uses of this agreement.

All such required on-duty enforcement services shall be acquired, administered and paid for in accordance with the **FDOT/DHSMV** "Contractual Services Agreement." For on-duty enforcement services, only uniformed **FHP** officers on detail from their regular work assignments shall be used under this agreement.

DETERMINING STAFFING REQUIREMENTS

When the need for active patrolling is determined, this need shall be clearly indicated in the **Comp Book** by construction phase, operation and duration. The designer will be responsible for preparing an estimate of the number of hours the troopers will be required and the dollar compensation and indicate this in the **Comp Book**.

Staffing needs shall be estimated and detailed by considering the requirements of each construction operation, the MOT plan for that phase and the duration of the operations. **Short-term** closures, diversions of **traffic** or restricted maneuvers may require limited officer use or none at all. Long-term work zones set up over long distances of alternate work activity and inactivity will almost always require periods of officer use to control traffic speed for the protection of workers, motorists and equipment. Each construction operation and its respective work zone traffic control plan must be analyzed with respect to the work zone speed limit, type of operation, length of work zone and duration of the conditions. The total number of estimated officer manhours for the project shall be determined by adding up the requirements for each phase of the operation. This estimate is used to determine the budget to be encumbered for that project.

USE OF AGREEMENT - PROCESS FOR USE

STEP BY STEP PROCESS

After a decision has been made by **FDOT** that a patrolling officer is needed on a particular project, the following steps are necessary:

1. An estimate of the number of manhours is necessary to allow for the necessary funding to be handled internally. This estimate should be made as early as possible to allow for this process.

For Construction Projects: Long range estimates should include this in the construction cost estimates on all projects where use is anticipated. At completion of the plans, an updated estimate should be provided to the District Production Director's office so that phase **58** construction funding is programmed. Also the estimate of hours and dollars must be entered into the **CES** using these pay items:

2999-~~bb~~1-MET FHP (CONTRACT) (DO NOT BID) for metric projects

b999-~~bb~~1-ENG FHP (CONTRACT) (DO NOT BID) for customary projects

This must be done so that money will be retained in the work program. If one of these pay items with estimated quantities for hours and dollars is not placed in **CES**, construction will not be able to encumber funds to pay the **FHP**.

For Maintenance Projects: Program funds for the **FHP** contract using phase **78**. The funds for this will come from maintenance contract dollars.

2. As plans are developed, reviews of maintenance of **traffic** plans must be held to determine the extent of need. These reviews should include, at least at the Phase III review, a meeting with **FHP** to discuss their involvement. At this time, the project schedule should also be discussed as **FHP** will coordinate their officer's schedules to meet our project needs.
3. Immediately following contract award, allowing for sufficient processing time, a purchase order will be submitted for the total estimated cost of the patrol officer's use on a specific project. This purchase order should be issued by the District's assigned Contract Manager. Normal purchase order processing will apply. The purchase requisition must reference the contract number. An approved purchase order constitutes a notice to proceed. Both the **requisition** and the purchase order should have the notation: "In accordance with contract number B-BOW. This purchase order may be for a period greater than one year but should not extend out to beyond the expiration of the contract with the **FHP**."
4. To actually begin use of an officer, the **FDOT** Project Engineer or Maintenance Engineer is to **notify** the **FHP's** District Commander a minimum of two weeks in advance of the scheduled use. Unscheduled needs require a minimum of **24** hours notice. Canceled uses

require two hours prior notification. If a scheduled officer is not needed because of weather, changed work activities, etc., the officer will be reimbursed for two hours of work or actual work time whichever is greater (see more details in copy of Scope of Services attached).

5. The officer will coordinate his work activities with the **FDOT** project designee on site. The officer's time will be monitored through radio contact with his local office and through submitted time sheets. The time sheet will reflect the specific project number involved and all activities while on duty. These time sheets will be held by the **FHP** office available for our review. The **FDOT** project designee will record the officer's time and project activities.
6. **FHP** will then submit to the Project Engineer or Maintenance Engineer monthly billings per officer, per project with summary of manhour charges. These payments will be deducted **from** the advanced funding and handled internally by transfer.
7. **FHP** will also provide quarterly reports to **FDOT** summarizing work zone patrol activities. These are to be provided to the Project engineer or Maintenance engineer at the time of billings. These quarterly reports along with actual project evaluations should be reviewed to determine the success of the officer's level of activities.
8. Districts should report annually to the State Construction Office or more frequently if needed on their support of continued use of the officers as contracted through the Master Agreement. This information will be used to modify the agreement if necessary.

The Master Agreement contains more detailed information on the total process along with standard contract language.

RECORD KEEPING/AGREEMENT EVALUATION

As stated earlier in this guide, the **FHP** will report quarterly on their activities which will be included as a submittal with that month's billing. These reports should be evaluated by the district to determine effectiveness of the officer's use. The reports should also be forwarded by the district to the State Construction Office for an annual (as a minimum) review.

Review and evaluation by Central Office should determine the statewide benefits of continued renewal of the Agreement. Any concerns should also be shared with **FHP** both at the District and State levels.

Work zone accidents, recorded speeding violations, and other similar information should assist in future **TCP** development.

OTHER USE OF OFFICERS IN WORK ZONES NOT COVERED BY AGREEMENT

INCLUDED IN TCP WITH OFFICER PAY ITEM (102-10)

This pay item is for stationary law enforcement services. Please consult the Basis of Estimates Manual before using.

This pay item should not be used unless an officer is needed to direct **traffic**.

CONTRACTOR ELECTED USE OF OFFICERS

. The contractor may require other law enforcement services to assist with **traffic** control when setting up MOT plans, moving construction equipment and performing construction operations that are potentially hazardous to motorists. These services should be designated in the contractor's MOT plan and the costs for these services shall be included in the specific item of work or in the contract pay items for maintenance of traffic (Lump Sum mot). Pay items and estimated manhours for these contractor required services are not to be included in the Department's contract pay item for law enforcement services. The contractor will hire and pay these officers.

IN CONCLUSION

This guide including attachments has been prepared to assist the user in the process as has been detailed above. Any recommended revisions or additions should be directed to the Construction Engineer in the State Construction office.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
CONTRACTUAL SERVICES AGREEMENT
(STATE OF FLORIDA GOVERNMENTAL AGENCIES)

FORM 375-040-17
CONTRACTUAL SERVICES
OGC - 1296
Page 1 of 4

Contract No. B-B081
State Job No.(s) _____
Journal Trans. 7620200900176100000
Benefiting Object Code 76202009001761
Benefiting Category _____
D.M.S. Catalog Class No. 991-380

BY THIS AGREEMENT, made and entered into this 9th May 1997, the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter called "Department" and **FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES** an agency or educational unit as defined in Chapter 120, Florida Statutes, hereinafter called "Contractor," hereby agree as follows:

1. SERVICE

- A. In connection with work zone traffic control, the Department does hereby retain the Contractor to furnish certain **services**, information and items as described in **Exhibit "A,"** attached hereto and made a part hereof.

2. TERM

- A. Initial Term. This Contract shall begin on the date of **execution** and shall terminate on J u n e 30, 2002

- B. RENEWALS (Check appropriate box):

☒ This Contract **may** not be renewed.

☐ This Contract may be renewed on a yearly basis for a period of up to two years after the initial contract or for a period no longer than the term of the original contract, whichever period is longer. Renewals shall be contingent upon satisfactory performance evaluations by the Department and subject to the availability of funds. Any renewal or extension shall be in writing and executed by both parties, and shall be subject to the same terms and conditions set forth in this Agreement.

3. COMPENSATION AND PAYMENT

- A. The Department agrees to pay the Contractor for the herein described services at a compensation as **detailed** in **Exhibit "B"** attached hereto and made a part hereof.
- B. **Payment** shall be made only after receipt and approval of goods and services unless **advance payments** are authorized by the State Comptroller under Section 2 **15.422(14)**, Florida Statutes.
- C. If this Contract involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.
- D. Any penalty for delay in payment shall be in accordance with Section 2 **15.422(3)(b)**, Florida Statutes.
- E. Bills for fees or other compensation for services or **expenses** shall be submitted in detail **sufficient** for a proper **preaudit** and postaudit thereof.
- F. Bills for travel expenses specifically authorized in Exhibit "**B**" shall be submitted and paid in accordance with Section **112.061**, Florida -Statutes.
- G. A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for contractors/vendors **who** may be experiencing problems in **obtaining** timely **payment(s)** from a state agency The Vendor Ombudsman may be contacted at (904) 488-2924 or by

calling the State Comptroller's Hotline, 1-800-848-3792.

H. The Department, during any fiscal year, shall not **expend** money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or **written**, made in violation of this subsection is null and void, and no money may be paid on such contract. A statement from the Comptroller of the Department shall be required stating that funds are available prior to entering into any such contract or other binding commitment of **funds**. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be **executory** only for the value of the **services** to be rendered or **agreed** to be paid for in succeeding fiscal years. Accordingly, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

4. A. **INDEMNITY**. To the extent permitted by Florida Law, the Contractor indemnifies, saves, and holds **harmless** the Department, and any and all claims, demands, actions, or causes of **actions of** whatsoever nature or character, arising out of or by reason of the execution or performance of the work provided for herein. It is understood and agreed that the Contractor is not required to **indemnify** the Department for claims, demands, or liability arising out of the Department's negligence. The parties agree that **1%** of the total compensation to the Contractor for **performance** of this Agreement is the specific consideration from the Department to the Contractor for the Contractor's indemnity agreement.

5. COMPLIANCE WITH LAWS

- A. The Contractor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter **119**, Florida Statutes, and made or received by the Contractor in conjunction **with** this Agreement. Failure by the Contractor to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department. However, upon receipt of any such public records request, the Contractor shall immediately notify the Department's Contract Manager and secure his prior written consent before releasing such **records**.
- B. **PUBLIC ENTITY CRIME INFORMATION STATEMENT**: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or **perform** work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section **287.017**, for CATEGORY TWO for a period of **36** months **from** the date of being placed on the convicted vendor list.
- C. The Department shall consider the employment by any contractor of unauthorized aliens a violation of section **274A(e)** of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of **this contract**.

6. TERMINATION AND DEFAULT

- A. This Contract may be canceled by the Department in whole or in part at any time the interest of the Department requires such termination. The Department also reserves the right to seek termination or cancellation of this Agreement in the event the Contractor **shall** be placed in either voluntary or involuntary bankruptcy. The Department **further** reserves the right to terminate or cancel this Agreement in the event an assignment be made for the benefit of creditors. This Contract may be canceled by the Contractor only by mutual consent of both parties.
- B. If the Department determines that the performance of the Contractor is not satisfactory, the Department shall have the option of (a) immediately terminating the **Agreement**, or (b) **notifying** the Contractor of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the **Agreement** will be

terminated at the end of such time, or **(c)** take whatever action is deemed appropriate by the Department.

- C. If the Department requires termination of the Agreement for reasons other than unsatisfactory performance of the Contractor, the Department shall notify the Contractor of such termination, with instructions as to the **effective** date of termination or **specify** the stage of work at which the Agreement is to be terminated.
- D. If the Agreement is terminated before performance is completed, the Contractor shall be paid **only** for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily **completed** is a percentage of the total work called for by this Agreement. All work in progress will become the property of the Department and will be turned over promptly by the Contractor.

7. ASSIGNMENT AND SUBCONTRACTS

- A. The Contractor shall not sublet, assign or transfer any work under this Agreement without the prior written consent of the Department.

- B. Check the appropriate box:

☐ The following provision is hereby incorporated in and made a part of this Agreement:

It is expressly understood and agreed that any articles which are the subject of, or required to carry out this Contract (Agreement) shall be purchased **from** the corporation identified under Chapter 946, Florida Statutes, in the same manner and under the procedures set forth in Section 946.515(2),(4), Florida Statutes; and for purposes of this Contract (Agreement) the person, firm, or other business entity (Contractor) carrying out the provisions of this Contract (Agreement) shall be deemed to be substituted for this Agency (Department) insofar as dealings with such corporation.

The "corporation identified" is Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE). Available pricing, products, and delivery schedules may be obtained by contacting:

PRIDE of Florida
(Attn: Bid Administrator)
2720 Blair Stone Road, Suite G
Tallahassee, Florida 32301
Telephone: (904) 487-3774

- ☒ This Contract involves the expenditure of Federal **funds** and hence, Section 946.515, as noted above, does not apply. However, **Appendix I** is applicable to all parties and is hereof made a part of this Agreement.

8. MISCELLANEOUS

- A. This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.
- B. It is understood and agreed by the parties hereto that if any part, term or provision of this Contract is by the courts held to be illegal or in conflict with **any** law of the State of Florida, the validity, of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular part, term or provision held to be invalid.
- C. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

D. Attachments

Appendix **I** - Federal Aid Contracts
Exhibit "A" - Scope of **Services**
Exhibit "B" - Method of Compensation

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized **officers** on the day, month and year set forth above.

FLORIDA DEPARTMENT OF HIGHWAY
SAFETY AND MOTOR VEHICLES

By: *Russ Rothman*
Authorized Signature

Russ Rothman
(Print/Type)

Title: Chief of Purchasing & Contracts

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: *Freddie Simmons*

Bill Devo
(Print/Type)

Title: State Highway Engineer

REVIEWED BY: *Pat D. Shear*
Agency's General Counsel Office

FOR DEPARTMENT USE ONLY

APPROVED:

[Signature]
Contractual Services Office

REVIEWED BY:

[Signature] 4-17-97
General Counsel Office

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STANDARD CONSULTANT AGREEMENT - APPENDIX I
(Federal Aid Contracts)

1.00 It is understood and agreed that all rights of the Department relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.

1.01 It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of **U.S.D.O.T.**, anything to the contrary in this Agreement notwithstanding.

1.10 Compliance with Regulations: The Consultant shall comply with the regulations of the U.S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (Title **49**, Code of Federal Regulations, Part **21**, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the contract.

1.20 Nondiscrimination: The Consultant, with regard to the work performed by him after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, religion, sex or national origin in the selection and retention of subcontractors, including procurements of material and leases of equipment. The consultant will not participate either directly or indirectly in the discrimination prohibited by Section **21.5** of the program set forth in Appendix B of the Regulations.

1.30 Solicitations for Subcontracts, Including Procurements of **Materials and Equipment**: In all solicitations made by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor, supplier or lessor shall be notified by a consultant of the consultant's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color religion, sex or national origin.

1.40 Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or U.S. Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where

any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall certify to the Department, or the U.S. Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.

1.50 Sanctions of Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the State of Florida Department of Transportation shall impose such contract sanctions as it or the U.S. Department of Transportation may determine to be appropriate, including, but not limited to,

1.51 withholding of payments to the Consultant under the contract until the Consultant complies and/or

1.52 cancellation, termination or suspension of the contract, in whole or in part.

1.60 Incorporation or Provisions: The Consultant will include the provisions of Paragraph **1.0** through **1.60** in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the State of Florida Department of Transportation or the U.S. Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State, and, in addition, the Consultant may request the United States to enter into such .
••••• to protect the interests of the United States.

1.70 Interest of Members of Congress: No member of or delegate to the Congress of the United States be admitted to any share or part of this contract or to any benefit arising therefrom.

1.80 Interest of Public Officials: No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall be any interest, direct or indirect, in this contract or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State.

1.90 Participation by Minority Business Enterprises: The Consultant shall agree to abide by statements in Paragraph **(1)** and **(2)** which follow. These statements shall be included in **all** subsequent **agreements** between the Consultant and any subconsultant or contractor.

(1) "Policy: It is the policy of the Department of

Transportation that minority business enterprises as defined in **49 CFR Part 23** shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the **MBE** requirements of **49 CFR Part 23** apply to this agreement."

- (2) **"MBE Obligation:** The recipient or its contractor agrees to ensure that minority business enterprises, as defined in **49 CFR Part 23**, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with **49 CFR Part 23** to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts."

2.00 It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, United States Code, Title **18**, Section **1020**, is hereby incorporated by reference and made a part of this Agreement.

3.00 It is understood and agreed that if the Consultant at any time learns that the certification it provided the Department in compliance with **49 CFR, Section 23.51**, was erroneous when submitted or has become erroneous by reason of changed circumstances, the Consultant shall provide immediate written notice to the Department. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as set forth in **49 CFR, Section 29.510**, shall be included by the Consultant in all lower tier covered transactions and in all aforementioned federal regulation.

CERTIFICATION **OF** FLORIDA DEPARTMENT **OF** TRANSPORTATION

I do hereby certify that I am the State Highway Engineer of the Florida Department of Transportation and that the above Contractor **or** its representative has not been required, by the Department, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract, to

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree **to** pay, to any **firm, person,** or organization, **any** fee, contribution, **or** donation, or consideration of any kind:

I acknowledge that this certificate is to be furnished to a federal agency, in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

5/9/97

Date

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY:

^A
Freddie Summon

Bill Deyo
State Highway Engineer

CERTIFICATION OF CONTRACTOR

I hereby certify that I am Russ Rothman,
a duly authorized representative of the firm Florida Department of
Highway Safety and Motor Vehicles, whose address is Tallahassee,
Florida, and that neither I nor the above firm I here represent has:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above contractor) to solicit or secure this contract:
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract: or
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above contractor) any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the State of Florida Department of Transportation and a federal agency in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

5/6/97

Date

Russ Rothman

Contractor

EXHIBIT "A"
Scope Of Services

I. Objective

The FDOT, through its construction and maintenance activities, is making certain improvements to the highways throughout the State of Florida. Often, these improvements will cause closure of portions of the roadway causing traffic restrictions or necessity to divert vehicular movement. It then becomes necessary to implement an effective work zone traffic control system that provides for the safety and protection of both work zone workers and the motoring public moving through the work zones. This work zone traffic control system will include utilization of appropriate law enforcement services provided by Florida Highway Patrol (FHP) Troopers to control traffic through work zones, to enforce traffic laws and to provide other specific assistance as necessary.

The FDOT requests such law enforcement services from the DHSMV, namely uniformed officers from the FHP pursuant to the conditions of this Scope of Services.

The FHP will provide law enforcement services as requested by FDOT, subject to the approval and staffing needs of the FHP. Assignment of FHP officers will be made in accordance with the established DHSMV program guidelines. FHP officers will be scheduled to patrol at mutually agreed times and locations. Officers assigned work zone patrols will be responsible for coordinating all necessary emergency services, patrol activities, and directing traffic under the direct control of the assigned FHP District Commander. Work zone activities will be coordinated with the FDOT Project Engineer

or Maintenance Engineer (or specifically assigned project designees).

Law enforcement services provided are for the exclusive purpose of assisting FDOT to properly protect work zone personnel and affected motorists during necessary highway construction or maintenance activities. The FHP agrees to cooperate with the FDOT by providing any information necessary to assist in the evaluation of this work zone safety project. The FHP further agrees to permit FDOT or its designee to audit and inspect any records pertaining to services provided under this agreement.

II. Services to be Provided by FHP

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13 42497

A. All work zone patrols will be staffed utilizing ~~existing~~ FHP overtime hireback procedures.

B. The patrol program procedures will include non FDOT compensated FHP non-bargaining unit supervisory personnel as participants for program supervision and or evaluation.

C. FHP personnel assigned to the work zone patrols will be directly accountable only to assigned FHP District Commander. The assigned FHP patrol personnel will coordinate work zone activities with the FDOT Project Engineer or Maintenance Engineer (or their project designee). During the period of rendition of the foregoing services, the trooper shall be considered on detail from their regular work assignments. The trooper shall remain the employee of the DHSMV for all purposes.

D. Incidents investigated by FHP personnel will follow standard FHP reporting and operational procedures.

E. FHP emergency staffing needs will take precedence over work zone hireback patrols. In the event an officer must leave the work zone for such an emergency, the designated FDOT representative will be notified.

F. Court time encountered as a result of these patrols will be the responsibility of the FHP and will not be reimbursed by FDOT.

G. Vehicle mileage and maintenance costs will be the responsibility of FHP and will not be reimbursed by FDOT.

H. FHP officers participating in work zone patrols will be compensated only for those hours in which patrols are actually performed within the project limits.

I. FHP agrees to provide quarterly reports to FDOT summarizing work zone patrol activities. The reporting criteria and format will be mutually agreed upon by FHP and FDOT. The reports are to be provided to the Project Engineer or Maintenance Engineer.

J. Any trooper participating under this agreement who suffers disability or death as a result of personal injury arising out of an in the performance of duties in connection herewith shall be treated, for the purposes of the DHSMV's employee compensation program, as an employee of the DHSMV who sustained injury or death in the performance of duty.

III. Services to be Provided by FDOT

A. FDOT will provide the opportunity to FHP for review of work zone traffic control plans. FDOT will coordinate project schedules with FHP to allow for advanced scheduling of patrols. A minimum of two weeks advanced notification is required for project

patrol needs. For unscheduled needs that occur, a minimum of 24 hours advanced notification is required.

B. The designated FDOT representative will provide at least two hours prior notification to FHP should scheduled patrols become unnecessary. When weather or some other unusual circumstances occurs which necessitates canceling the work day, the FHP officer will be reimbursed for two hours of work or actual work time whichever is greater unless the officer can be notified at least two hours prior to such work cancellations. Scheduled patrols may occur on days with no construction or maintenance activity in progress, but for which conditions warranting patrols remain.

C. Specific project information and patrol needs will be contained in the FDOT project plans and provisions or as modified by the Project Engineer or Maintenance Engineer.

EXHIBIT "B"
METHOD OF COMPENSATION

1.0 PURPOSE:

This Exhibit defines the limits and method of compensation to be made to the Contractor for services set forth in the Exhibit "A" and the method by which payments shall be made.

2.0 ASSIGNMENT OF WORK:

The Department shall request Contractor services on an as needed basis. Services to be provided on each project will be initiated and completed as directed by the Project Manager. A Purchase Order will be issued for each assignment.

3.0 ESTABLISHMENT OF MAXIMUM AMOUNT PER ASSIGNMENT:

For each assignment the Department, following the Scope of Services as set forth in Exhibit "A", shall prepare an estimate of work and price based on the rate established in Section 6.0. Once an acceptable Maximum Amount has been agreed upon by the Contractor and the Department's Contract Manager, a Purchase Order shall be issued by the Contract Manager. All work assignments shall be completed within the term of this agreement. The Maximum Amount will represent an estimate. Compensation will be determined by multiplying hours worked times actual direct wages times up to 1.5765, or such additional amount as may be required and amended in the future for payment of FICA and Medicare.

NOTE : The Contract Manager shall insure the following wording is included on the Department's Requisition and Purchase Order: "In accordance with Contract Number B-BCE1".

4.0 COMPENSATION:

This is an Indefinite Quantity Contract whereby the Contractor agrees to furnish services during a prescribed period of time. The specific period of time completes such a contract. The Department will authorize services based on need and availability of budget. There is no Total Maximum Amount for this contract.

5.0 PROGRESS PAYMENTS:

The Contractor shall submit monthly invoices (4 copies) in a format acceptable to the Department. For the satisfactory performance of the services detailed in each Purchase Order, the Contractor shall be paid as set forth in Section 3.0. Partial payments shall be made to the Contractor in an amount to cover costs incurred during the preceding month for Actual direct wages plus an allowance of up to 0.5765 for overtime rate and benefits, or such additional amount as determined in Section 3.0 above. The invoice shall include itemization of officer hours and substantiation of wages.

6.0 DETAILS OF UNIT RATE:

Details of Unit Rates for the performance of the Contractor's services set forth in Exhibit "A" are as detailed below:

AVERAGE RATE TO BE USED FOR ESTIMATING MAXIMUM AMOUNTS (includes the allowance!	= \$ 35.00 per hour
FHP OFFICER WAGE RATE	= ACTUAL WAGE RATE OF OFFICER
PAYMENT RATE	= FHP OFFICER WAGE RATE X up to 1.5765, or such additional amount as determined in Section 3.0 above.

7.0 ADVANCE PAYMENT:

The Department has provided to the Contractor under a prior agreement (Florida Department of Transportation Contract No. **B-8970**), advance payment in the amount of **\$100,000.00** based on **estimated** costs for at least three months of services, or such other amount of costs as the parties may agree upon, to provide an operating budget for projects that may be authorized by the Department. The funds from advance payment fund (**\$100,000.00**) shall be retained for the duration of this contract. Upon completion of all services or contract termination, whichever occurs first, the Contractor shall refund to the Department the advance payment for operating budget, unless continued by a new contract.